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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,300	07/24/2003	William S. Richie JR.	384-1U5 (ITW-8533-63)	1877

570 7590 11/16/2005

AKIN GUMP STRAUSS HAUER & FELD L.L.P.  
ONE COMMERCE SQUARE  
2005 MARKET STREET, SUITE 2200  
PHILADELPHIA, PA 19103

EXAMINER

KITOV, ZEEV

ART UNIT	PAPER NUMBER
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2836

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/626,300

Applicant(s)

RICHIE ET AL.

Examiner

Zeev Kitov

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 08/26/MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) \_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1 - 68 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. ____.  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____.   | 6) <input type="checkbox"/> Other: ____.                                    |

### **Election/Restriction Requirement**

The inventions are distinct, each from the other because of the following reasons:

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1 – 9 and 58 - 64, drawn to the ionization system, classified in class 361, subclass 213.
- II. Claims 24 – 33 and 48 - 57, drawn to the ionizer hardware, classified in class 361, subclass 231.
- III. Claims 10 – 23 and 34 - 47, drawn to method of the ion stream balancing, classified in class 250, subclass 423.
- IV. Claims 65 - 68, drawn to method of calibrating an ion emitter module, classified in class 324, subclass 424.

The inventions are distinct, each from the other because:

1. Inventions of Groups II and III are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the ionizer

hardware of Group II can be used without ion stream balancing of Group III. At the same time the balancing of Group III can be applied to the ion stream created by the ionizer having different hardware structure.

2. Inventions of Groups II and IV are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the ionizer hardware of Group II can be used without calibrating an emitter module of Group IV. At the same time the calibrating the emitter module of Group IV can be applied to the ionizer having different hardware structure.

3. Inventions of Groups III and IV are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the inventions of Groups III and IV are different and unrelated, since each of them can be practiced without another one. The calibrating of the emitter module and balancing the ion stream are totally different operations having different goals and capable of being used individually. The balancing of the ion stream can be achieved even with poorly calibrated ion emitter. At the same time properly calibrated ion emitter cannot ensure the balanced ion stream.

4. Inventions of Groups I and II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different

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modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the inventions of Groups I and II are different because the Group II invention deals with the single ionizer hardware, which has no connection to the system issues of Group I. All disclosed hardware can be used for single ionizer. At the same time the invention of Group I deals with the matters of the ionizer system, such as communication with remote modules of the system, which is not necessary for single module.

5. All statements with regard to differences between Groups II and III, II and IV are similarly applicable to the differences between Groups I and III, I and IV due to the same reasons.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.


Because these inventions are distinct for the reasons given above and the search required for Group II is not required for Groups III or IV, search required for Group III is not required for Group IV, search required for Group I is not required for Group II, II or IV restriction for examination purposes as indicated is proper.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zeev Kitov whose telephone number is (571) 272 2052. The examiner can normally be reached on 8:00 - 4:30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Sircus can be reached on (571) 272 2800, Ext. 36. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Z.K.  
11/1/2005



**BRIAN SIRCUS**  
**SUPERVISORY PATENT EXAMINER**  
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